

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

LILIAN KIRAKA,

Plaintiff,

6:18-cv-1264
(GLS/TWD)

v.

M & T BANK et al.,

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

Lilian Karaka
Pro Se
60 Freedom Court, Apt. K
Utica, NY 13502

FOR THE DEFENDANTS:

No Appearances

Gary L. Sharpe
Senior District Judge

ORDER

On November 7, 2018, Magistrate Judge Thérèse Wiley Dancks issued an Order and Report-Recommendation (R&R), which granted Lilian Kiraka's application to proceed *in forma pauperis* and recommended that her complaint be dismissed in its entirety with leave to amend in part. (Dkt. No. 4 at 7.) Pending before the court are Kiraka's objections to the R&R,

which were filed one day after they were due. (Dkt. No. 5.)

Although Kiraka asserts that she is “objecting to the r[e]commend[ation] that the claim against [d]efendant M & T Bank be [d]ismissed,”¹ (*id.* at 1), she does not actually raise any specific objections with the R&R’s legal analysis. Instead, she provides additional information aimed at addressing the deficiencies outlined by the R&R. (*Id.* at 1-4.) Even if Kiraka’s “objections” were timely, they trigger review for clear error only, of which the court finds none, because Judge Dancks thoroughly and correctly analyzed the sufficiency of Kiraka’s Title VII claims. See *Almonte v. N.Y. State Div. of Parole*, No. Civ. 904CV484, 2006 WL 149049, at *5-6 (N.D.N.Y. Jan. 18, 2006). Accordingly, the R&R, (Dkt. No. 4), is adopted in its entirety.

Without commenting on whether the additional allegations provided in Kiraka’s filing adequately address the deficiencies outlined in the R&R, (Dkt. No. 4 at 6-7), the court takes this opportunity to remind Kiraka that

¹ Kiraka does not object to Judge Dancks’ recommendation to dismiss her Title VII claims against individual employees of M & T Bank with prejudice. After careful review, the court finds no clear error with this portion of the R&R. As such, it is adopted and the claims against these defendants are dismissed. See *Patterson v. County of Oneida*, 375 F.3d 206, 221 (2d Cir. 2004) (noting that individuals are not subject to Title VII liability).

any additional factual allegations should be set forth in an amended complaint. If Kiraka chooses to file an amended complaint, it must be a wholly integrated and complete pleading that does not rely upon or incorporate by reference any pleading or document previously filed with the court. See *Shields v. Citytrust Bancorp, Inc.*, 25 F.3d 1124, 1128 (2d Cir. 1994).

Accordingly, it is hereby

ORDERED that the R&R (Dkt. No. 4) is **ADOPTED** in its entirety; and it is further

ORDERED that the complaint (Dkt. No. 1) is **DISMISSED** as follows:

The claims against defendants Hendrie, Smith, and Galla are

DISMISSED; and

The claims against defendant M & T Bank are **DISMISSED with**

leave to amend in full compliance with Judge Dancks' R&R; and it is further

ORDERED that Kiraka shall file an amended complaint no later than thirty (30) days from the date of this Order, and the Clerk shall close this case without any further Order should she fail to do so; and it is further

ORDERED that the Clerk provide a copy of this Order to Kiraka in

accordance with the Local Rules of Practice.

IT IS SO ORDERED.

December 13, 2018
Albany, New York

Gary L. Sharpe
Gary L. Sharpe
U.S. District Judge